IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21648 of 2004

Between:

T.Ch.Veeroji, S/o Rayappa,
Central Telegraph Office, Vijayawada, Krishna District

..... PETITIONER

AND

1 The Sub Divisional Incharge, Central Telegraph Office,
Bharat Sanchar Nigam Limted, Vijayawada
2 The Senior Superintendent, Telegraph Traffic
O/o The General Manager, Telecom, Bharat Sanchar Nigam Limited, Vijayawada
3 The Chief General Manager, Telecommunication, Bharat Sanchar Nigam Limited,
Nampally Station Road, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or Order or direction more particularly one in the nature of Writ of Mandamus to set aside the punishment of withholding of one increment for a period of 6 months without cumulative effect by the 2nd respondent in Lr.No.PF201/Appeal/TCV/01-2/03 dated 13-05-2001 holding it as illegal, irregular, violative of principles of natural justice, without any evidence, without reasonable opportunity and consequentially direct the respondents to release and pay all the consequential benefits that flow there from and pass

Counsel for the Petitioner:MR.K.R.SRINIVAS

Counsel for the Respondent No.: MS.P.SARADA, CENTRAL GOVERNMENT STANDING COUNSEL

The Court made the following :

ORDER:

-

The present writ petition is filed to set aside the punishment of withholding one increment for a period of six months without cumulative effect by the 2nd respondent in Lr.No.PF201/Appeal/TCV/01-2/03 dated 13.05.2001.

The charge against the writ petitioner is that on 25.09.2000 the writ petitioner by taking liquor in the office premises thereby spoiling the congenial atmosphere and peaceful working condition of the office, for which he was asked to give an explanation. Explanation was given by the petitioner. Thereafter, no enquiry was conducted. But basing on the explanation and the charge memo and the statements of witnesses, the disciplinary authority imposed punishment of withholding one increment without cumulative effect. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner contended that without conducting enquiry, the disciplinary authority imposed the penalty and that no witnesses were examined and no documents were marked in the enquiry and therefore, the order suffers from serious legal infirmities.

On the other hand, the learned counsel for the respondents contended that since a

minor penalty is imposed, there is no need for the disciplinary authority to conduct any enquiry and that basing on the explanation given by the writ petitioner, appropriate orders have been passed and therefore, she prays to dismiss the writ petition.

The facts are not in dispute. The grievance of the writ petitioner is that no witnesses were examined in the enquiry and as a matter of fact, no enquiry is conducted at all and the statements of witnesses relied upon by the disciplinary authority have not been supplied to the writ petitioner so as to confront the same to the witnesses and therefore the enquiry is vitiated and the findings of the enquiry are perverse and not based upon any acceptable evidence. There cannot be any dispute that this court while exercising judicial review, cannot take a different view than the one taken by the disciplinary authority, unless it is shown that the findings are based upon no evidence. In such a situation, this Court can exercise judicial review of administrative matters. Admittedly, no witnesses were examined in the departmental enquiry nor the statements of witnesses were furnished to the writ petitioner. Since the findings are based upon no evidence, the proceedings are set aside and the case is remitted to the disciplinary authority to conduct an enquiry, in accordance with law, after supplying statements of witnesses and after giving reasonable opportunity to the writ petitioner, within a period of three months from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly.

_____

06.12.2004

NOTE: Furnish C.C by one week

(B.O)

bsv

To

1 The Sub Divisional Incharge, Central Telegraph Office,
Bharat Sanchar Nigam Limted, Vijayawada
2 The Senior Superintendent, Telegraph Traffic
O/o The General Manager, Telecom, Bharat Sanchar Nigam Limited,

Vijayawada
3 The Chief General Manager, Telecommunication, Bharat Sanchar Nigam

Limited, Nampally Station Road, Hyderabad

4. 2 CD copies